

BEFORE THE TENNESSEE REGULATORY AUTHORITY

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NASHVILLE, TENNESSEE

IN RE:

EXECUTIVE OF TALK.COM

SHOW CAUSE PROCEEDING
AGAINST TALK.COM, INC.

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DOCKET NO.
01-00216

Approved
BRH

PROTECTIVE ORDER

To expedite the flow of filings, exhibits and other materials, and to facilitate the prompt resolution of disputes regarding confidentiality of the material, adequately protect material entitled to be kept confidential and to ensure that protection is afforded only to material so entitled, the Tennessee Regulatory Authority ("TRA") hereby orders that:

1. For the purpose of this Protective Order (the "Order"), proprietary or confidential information, hereinafter referred to as "CONFIDENTIAL INFORMATION" shall mean documents and information in whatever form which the producing party, in good faith, deems to contain or constitute trade secrets, confidential research, development or other sensitive information, and which has been specifically designated by the producing party. A producing party is defined as the party creating the confidential information as well as the party having actual physical possession of information produced pursuant to this Order. All summaries, notes, extracts, compilations or other direct or indirect reproduction from or of any protected materials, shall be entitled to protection under this Order. Documents containing CONFIDENTIAL INFORMATION shall be specifically marked as confidential on the cover with the accompanying page numbers listed either on the cover or on a subject

highlighted under or through the passages of information to clearly identify the CONFIDENTIAL INFORMATION without defacing the information or rendering it undecipherable. The document containing CONFIDENTIAL INFORMATION must be accompanied by proof of confidentiality, that is, an affidavit showing the cause for protection under this Order. The Affidavit may be reviewed by the Pre-Hearing Officer, Administrative Law Judge or the Authority for compliance with this paragraph. Any document so designated shall be handled in accordance with this Order. The provisions of any document containing CONFIDENTIAL INFORMATION may be challenged under Section 11 of this Order.

2. Any individual or company subject to this Order, including producing parties or persons reviewing CONFIDENTIAL INFORMATION, shall act in good faith in discharging their obligations hereunder. Parties or nonparties subject to this Order shall include parties which are allowed by the TRA to intervene subsequent to the date of entry of this Protective Order.

3. CONFIDENTIAL INFORMATION shall be disclosed only to the following persons:

- (a) counsel of record for the parties in this case and associates, secretaries, and paralegals actively engaged in assisting counsel of record in this and the designated related proceedings;
- (b) in-house counsel for the parties;
- (c) officers, directors, or employees of the parties, including employees of the Consumer Advocate Division, who are directly and specifically consulted or involved in this docket; provided, however, that CONFIDENTIAL INFORMATION shall be shown only to those persons having a need to know;
- (d) TRA Directors and members of the staff of the TRA;
- (e) outside consultants and expert witnesses employed or retained by the parties or their counsel, who have access to CONFIDENTIAL INFORMATION

solely for evaluation, testing, testimony, preparation for trial or other services related to this docket, provided that to the extent that any party seeks to disclose CONFIDENTIAL INFORMATION to any outside consultant or expert witness who is expected to testify on that party's behalf, the party shall give five (5) days' written notice to the producing party of intention to disclose CONFIDENTIAL INFORMATION. During the notice period, the producing party may move to prevent or limit disclosure for cause, in which case no disclosure shall be made until the Tennessee Regulatory Authority, the Pre-Hearing Officer, the Administrative Law Judge or court rules on the motion. Any such motion shall be filed within three (3) days after service of the notice. Any response shall be served within three (3) days after service of the motion. Pre-Hearing conferences may be called to confer with the parties on the Motions to Limit Disclosure. All service shall be by hand delivery or by facsimile.

Under no circumstances shall any CONFIDENTIAL INFORMATION be disclosed to or discussed with anyone associated with the marketing of products, goods or services in competition with the products, goods or services of the producing party.

4. Prior to disclosure of CONFIDENTIAL INFORMATION to any TRA Director, member of the TRA staff, employee, officer or director of the parties, including any employee of the Consumer Advocate Division, the counsel representing the party who is to receive the CONFIDENTIAL INFORMATION shall provide a copy of this Order to the recipient Director, staff member, employee, officer, or director, who shall be bound by the terms of this Order. Prior to disclosure of CONFIDENTIAL INFORMATION to any outside consultant or expert witness employed or retained by a party, counsel shall provide a copy of this Order to the outside consultant or expert witness, who shall sign an affidavit in the form of that attached to this Order attesting that he or she has read a copy of this Order, that he or she understands and agrees to be bound by the terms of this Order, and that he or she understands that unauthorized disclosure of the documents stamped CONFIDENTIAL constitutes a violation of this Order. This affidavit shall be signed in the presence of and be notarized by a notary public. Counsel of record for each party shall provide the producing

party a copy of each Affidavit and shall keep the Affidavits executed by the parties' experts or consultants on file at their respective offices.

5. If any party or non-party subject to this Order inadvertently fails to designate documents as CONFIDENTIAL in accordance with the provisions of this Order when producing the documents this failure shall not constitute a waiver of confidentiality, provided the party or non-party who has produced the document shall notify the recipient of the document in writing within five (5) days of discovery of such inadvertent failure to designate the document as CONFIDENTIAL. At that time, the recipients will immediately treat the subject document as CONFIDENTIAL. In no event shall the TRA be liable for any claims or damages resulting from the disclosure of a document while not designated as CONFIDENTIAL. An inadvertent failure to designate a document as CONFIDENTIAL, shall not, in any way, affect the TRA's determination as to whether the document is entitled to CONFIDENTIAL status.

6. If any party or non-party subject to this Order inadvertently fails to designate documents as CONFIDENTIAL in accordance with the provisions of this Order when producing such documents and the failure is not discovered in time to provide a five (5) day notification to the recipient of the confidential nature of the documents referenced in the paragraph above, the failure shall not constitute a waiver of confidentiality and a party by written motion or by oral motion at a Pre-Hearing conference called for the purpose or at the Hearing on the merits may request designation of the documents as CONFIDENTIAL, and if the motion is granted by the Pre-Hearing Officer, Administrative Law Judge, or the Authority, the recipients shall immediately treat the subject documents as CONFIDENTIAL. The Tennessee Regulatory Authority, the Pre-Hearing Officer or Administrative Law Judge

may also, at his or her discretion, either before or during the Pre-Hearing conference or hearing on the merits of the case, allow information to be designated CONFIDENTIAL and treated as such in accordance with the terms of this Order.

7. Any papers filed in this proceeding that contain, quote, paraphrase, compile or otherwise disclose documents covered by the terms of this Order, or any information contained therein, shall be filed and maintained with the Executive Secretary of the TRA in sealed envelopes marked CONFIDENTIAL and labeled to reflect the style of this proceeding, the docket number, the contents of the envelope sufficient to identify its subject matter and this Protective Order. The envelopes shall be maintained in a locked filing cabinet. The envelopes shall not be opened or their contents reviewed by anyone except upon order of the TRA, Pre-Hearing Officer, or Administrative Law Judge after due notice to counsel of record. Notwithstanding the foregoing, the Directors and the Staff of the TRA may review any paper filed as CONFIDENTIAL without obtaining an order of the TRA, Pre-Hearing Officer or Administrative Law Judge, provided the Directors and Staff maintain the confidentiality of the paper in accordance with the terms of this Order.

8. Documents, information and testimony designated as CONFIDENTIAL, in accordance with this Order, may be disclosed in testimony at the hearing of this proceeding and offered into evidence used in any hearing related to this action, subject to the Tennessee Rules of Evidence and to such future orders as the TRA, the Pre-Hearing Officer, or the Administrative Law Judge may enter. Any party intending to use documents, information, or testimony designated CONFIDENTIAL shall inform the producing party and the TRA, the Pre-Hearing Officer, or the Administrative Law Judge, prior to the hearing on the merits of the case in the manner designated previously in this Order, of the proposed use; and shall

advise the TRA, the Pre-Hearing Officer, or the Administrative Law Judge, and the producing party before use of the information during witness examinations so that appropriate measures can be taken by the TRA, the Pre-Hearing Officer, or the Administrative Law Judge to protect the confidential nature of the information..

9. Except for documents filed with the Executive Secretary of the TRA, all documents covered by the terms of this Order that are disclosed to the requesting party shall be maintained separately in files marked CONFIDENTIAL and labeled with reference to this Order at the offices of the requesting party's counsel of record.

10. Nothing herein shall be construed as preventing any party from continuing to use and disclose any information (a) that is in the public domain, or (b) that subsequently becomes part of the public domain through no act of the party, or (c) that is disclosed to it by a third party, where said disclosure does not itself violate any contractual or legal obligation, or (d) that is independently developed by a party, or (e) that is known or used by it prior to this proceeding. The burden of establishing the existence of (a) through (e) shall be upon the party attempting to use or disclose the information.

11. Any party may contest the designation of any document or information as CONFIDENTIAL by filing a Motion with the TRA, Pre-Hearing Officer, Administrative Law Judge or the courts, as appropriate, for a ruling that the documents, information, or testimony should not be so treated. All documents, information and testimony designated as CONFIDENTIAL, however, shall be maintained as such until the TRA, the Pre-Hearing Officer, the Administrative Law Judge, or a court orders otherwise. A Motion to contest must be filed not later than 15 (fifteen) days prior to the Hearing on the Merits. Any Reply from the Company seeking to protect the status of their CONFIDENTIAL INFORMATION must

be received not later than 10 (ten) days prior to the Hearing on the Merits. Motions made and subsequent Replies received within the 10 (ten) days prior to the Hearing on the Merits shall be presented to the Authority at the Hearing on the merits for a ruling.

12. Nothing in this Order shall prevent any party from asserting any objection to discovery other than an objection based upon grounds of confidentiality. Nothing in this Order is intended to limit or expand the statutory authority of the Attorney General or the Consumer Advocate Division as expressed in Tenn. Code Ann. § 10-7-504(a), entitled *Confidential Records*, and Tenn. Code Ann. § 65-4-118, entitled *Consumer Advocate Division*.

13. Non-party witnesses shall be entitled to invoke the provisions of this Order by designating information disclosed or documents produced for use in this action as CONFIDENTIAL and by filing an appropriate motion with the TRA, in which event the provisions of this Order shall govern the disclosure of information or documents provided by the non-party witness.

14. No person authorized under the terms herein to receive access to documents, information, or testimony designated as CONFIDENTIAL shall be granted access until such person has complied with the requirements set forth in paragraph 4 of this Order.

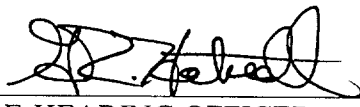
15. Any person to whom disclosure or inspection is made in violation of this Order shall be bound by the terms of this Order.

16. Upon an order becoming final in this proceeding or any appeals resulting from such an order, all the filings, exhibits and other materials and information designated CONFIDENTIAL and all copies thereof shall be returned to counsel for the party who produced (or originally created) the filings, exhibits and other materials, within fifteen (15)


days or counsel in possession of the filings, exhibits and other materials, shall certify to counsel for the producing party that all the filings, exhibits and other materials, plus all copies or extracts from the filings, exhibits and other materials, and all copies of the extracts from the filings, exhibits and other materials thereof have been destroyed.

17. After termination of this proceeding, the provisions of this Order relating to the secrecy and confidential nature of CONFIDENTIAL DOCUMENTS, information and testimony shall continue to be binding upon parties herein and their officers, employers, employees, agents, and/or others for five years unless this Order is vacated or modified.


18. Nothing herein shall prevent entry of a subsequent order, upon an appropriate showing, requiring that any documents, information or testimony designated as CONFIDENTIAL shall receive protection other than that provided herein.

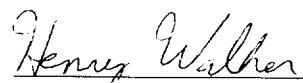

PRE-HEARING OFFICER 1-11-02

Attest:


K. David Waddell, Executive Secretary

APPROVED FOR ENTRY:


Lynn Questell
Attorney for the Consumer Services Division
of the Tennessee Regulatory Authority


Henry Walker *with permission*
Attorney for Talk.com, Inc. *by Rendal O. Walker*
1-11-02

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

IN RE:

SHOW CAUSE PROCEEDING
AGAINST TALK.COM, INC.

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DOCKET NO.
01-00216

AFFIDAVIT

State of _____
County of _____

The undersigned, being duly sworn deposes and says:

1. I am retained by or employed by _____, who
is a party in TRA Docket No. 01-00216.

2. I have read the Protective Order in this docket dated
_____, respecting the disclosure of confidential information. I agree to
be bound by the terms thereof, and I understand that the unauthorized disclosure of
Confidential Information constitutes a violation of the Protective Order and may subject
me to an action for injunctive relief and damages.

FURTHER AFFIANT SAITH NOT.

Executed this ____ day of _____, 2002.

Sworn to and subscribed before me
this ____ day of _____, 2002.

Notary Public
My commission expires: _____